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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/122,088 07/24/98 MOGIL

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EXAMINER

QM12/0928

NIKAIDO MARMELESTEIN MURRAY & ORAM  
METROPOLITAN SQUARE  
655 FIFTEENTH ST NW  
SUITE 330 - G ST LOBBY  
WASHINGTON DC 20005-5701

LAM, N

ART UNIT

PAPER NUMBER

3728

DATE MAILED:

09/28/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/122,088**

Applicant(s)

**Mogil**

Examiner

**Shian Lam**

Group Art Unit

**3728**



☐ Responsive to communication(s) filed on \_\_\_\_\_.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-24 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-24 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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***Claim Rejections - 35 USC § 112***

1. Claims 4, 6-8, 11, 16 and 22-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "a greater altitudinal dimension" in claim 4 is indefinite. It is not clear as to what the phrase encompass. The term "substantially impermeable liner" in claims 6, 8, 11 and 22-23 is indefinite. The liner is either impermeable or permeable to particles or gases. The phrase "a lower girth reinforcement for carrying loads to said second mount" and the phrase "one bracing web oriented to carry loads between a lower portion of said pack and said first mount" do not make any definite sense. It is not clear as to how a girth reinforcement carries loads. Also, no definite structure can be determined from the term "bracing web". The above noted defects are merely representative and are not intended to be a complete listing thereof.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 12, 18, 20 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Calton (US 4,673,117). Calton discloses an insulated container comprising an insulated

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compartment wherein the inner liner could completely cover the inside of the foam core. The foam core bonds to the liner without any additional adhesive. A lid 30 covers the compartment and an external pocket is attached to an exterior portion of the compartment. Other arrangements of pockets or pouches could be used to accommodate various special items (Col. 2, lines 58-59).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calton in view of Hoffman et al (US 5,649,658). Calton discloses all of the elements of the claims, but does not show an auxiliary compartment having two receptacles therein. However, Hoffman et al suggest providing two receptacles within an auxiliary pocket external to an insulated compartment. Hence, it would have been obvious in view of Hoffman et al to provide receptacle within the external pocket of Calton to carry additional items.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 1, further in view of Yoo (US 5,228,547) and Bearman (US 5,288,150). Calton discloses all of the elements of the claims, but does not show a see-through pocket mounted externally to the auxiliary compartment. However, Yoo suggests providing a

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pocket 13 located on the external side of the auxiliary compartment for holding small items.

Bearman also suggest providing see through pockets on a tote-bag. Hence, it would have been obvious in view of Yoo and Bearman to provide an external pocket to the exterior portion of the auxiliary compartment of Calton to provide additional storage area.

7. Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 1, further in view of Pelavin (US 4,378,866) and Bearman (US 5,288,150). Calton discloses all of the elements of the claims, but does not show a see-through slanted compartment on a side portion of the container. However, Pelavin suggests providing a slanted pocket on a side portion of the container to store an equipment therein. Bearman also suggest providing see through pockets on a tote-bag. Therefore, it would have been obvious in view of Pelavin and Bearman to provide pockets in a slanted shaped for the container of Calton since any shapes would work equally well.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 1, further in view of Hinson (US 2,827,096) and Fox (US 5,884,768). Calton discloses all of the elements of the claims, but does not show a handle on the lid portion. However, Hinson suggests providing an outer covering for the lid portion of a container while Fox shows a handle 17 on a lid portion of the container. Hence, it would have been obvious in view of Hinson and Fox to provide an outer covering on the lid portion of Calton to provide a pleasing external portion and to provide a handle to facilitate handling of the container.

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9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claims 1 and 5, further in view of Bomes et al (US 5,054,589). Calton discloses all of the limitations of the claims, but lacks invertible inner liner as recited in claim 6. However, Bomes et al suggest providing inner liners 52 within a container to store additional content therein. Therefore, it would have been obvious in view of Bomes et al to provide inner liners within the container of Calton to store additional content and to facilitate cleaning of the liner.

10. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 6, further in view of Official Notice. Calton does not provide a vented holder within the container. However, Official Notice is taken of the conventional use of a holder with openings such as a mesh holder within a container. Hence, it would have been obvious in view of Official Notice to provide a vented holder within the container of Calton to store items require venting.

11. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 1, further in view of Bomes et al (US 5,054,589). Calton discloses all of the limitations of the claims, but lacks invertible inner liner as recited in claim 6. However, Bomes et al suggest providing inner liners 52 within a container to store additional content therein. Therefore, it would have been obvious in view of Bomes et al to provide inner liners within the container of Calton to store additional content to facilitate cleaning of the liner.

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12. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 1, further in view of Siegel (US 4,192,365). Calton discloses all of the elements of the claims, but lacks a key holder. Siegel provides a key holder 150 to hold keys therein. Therefore, it would have been obvious in view of Siegel to provide a key holder in the auxiliary compartment of Calton to store a key therein.

13. Claims 12, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacober (US 4,767,039) in view of Von Neumann (US 5,934,527). Jacober discloses a backpack comprising an insulated compartment 23 in various forms as shown in Figures 1 and 5-9. The backpack has a carrying strap on a rear portion thereof. Jacober discloses all of the elements of the claims, but lacks a second mount. However, Von Neumann suggests providing shoulder straps 26 connectable by releasable hooks 28 onto loops 30. One loop is attached to the top of the bag and two other loops are attached to the back of the bag at a bottom of bag. Two straps 90 are connected to a side of a middle portion 14 which strap portions can be used to encircle the waist of a user. Therefore, it would have been obvious in view of Jacober to provide a second form of mounting on the bag of Jacober to secure the bag onto a waist of a user.

14. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacober in view of Von Neumann and Lipsitz (US 3,001,566). Jacober as modified above discloses all of the limitations of the claims, but lacks reinforcement around the mountings. However, Lipsitz suggests providing reinforcement 8,9 overlapping side walls 4,5 near mounting 65. Therefore, it

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would have been obvious in view of Lipsitz to provide reinforcement near the mounting of Jacober to prevent ripping of the bag near the straps.

15. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacober in view of Von Neumann and Official Notice. Jacober as modified above discloses all of the limitations of the claims, but lacks reinforcement around the mountings. However, Official Notice is taken of the conventional use of reinforcements on a bag to strengthen a certain portion of the bag. Therefore, it would have been obvious in view of Official Notice to provide an outer layer on the lower and upper portion of the bag of Jacober to provide additional reinforcements.

16. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Calton in view of Hinson (US 2,827,096) and Fox (US 5,884,768). Calton discloses all of the elements of the claims, but does not show a handle on the lid portion. However, Hinson suggests providing an outer covering for the lid portion of a container while Fox shows a handle 17 on a lid portion of the container. Hence, it would have been obvious in view of Hinson and Fox to provide an outer covering on the lid portion of Calton to provide a pleasing external portion and to provide a handle to facilitate handling of the container.

17. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 1, further in view of Pelavin (US 4,378,866) and Bearman (US 5,288,150). Calton discloses all of the elements of the claims, but does not show a see-through slanted compartment on a side portion of the container. However, Pelavin suggests providing a slanted pocket on a side portion of the container to store an equipment therein.



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Bearman also suggest providing see through pockets on a tote-bag. Therefore, it would have been obvious in view of Pelavin and Bearman to provide pockets in a slanted shaped for the container of Calton since any shapes would work equally well.

18. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Calton in view of Bomes et al (US 5,054,589). Calton discloses all of the limitations of the claims, but lacks invertible inner liner as recited in claim 6. However, Bomes et al suggest providing inner liners 52 within a container to store additional content therein. Therefore, it would have been obvious in view of Bomes et al to provide inner liners within the container of Calton to store additional content and to facilitate cleaning of the liner.

19. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Calton in view of Pelavin (US 4,378,866) and Bearman (US 5,288,150) and Bomes et al. Calton discloses all of the elements of the claims, but does not show a see-through slanted compartment on a side portion of the container and invertible liner. However, Pelavin suggests providing a slanted pocket on a side portion of the container to store an equipment therein. Bearman also suggest providing see through pockets on a tote-bag. Bomes et al suggest providing inner liners 52 within a container to store additional content therein. Therefore, it would have been obvious in view of Pelavin and Bearman and Bomes et al to provide pockets in a slanted shaped for the container of Calton and to provide invertible liners to store additional content and to facilitate cleaning of the liner. Also, the location of the invertible liner does not appear critical since it can be easily pull out and clean.

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*Conclusion*

20. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

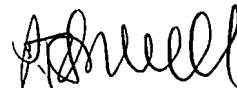
If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ebony Smith at (703)305-3570.

For applicant's convenience, the Group Technological Center FAX number is (703) 305-3579 or (703)305-3580. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Lam of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Shian Lam whose telephone number is (703) 308-2039.

STL

September 14, 1999



Paul T. Sewell  
Supervisory Patent Examiner  
Group 3700